

**PLANNING COMMITTEE
12 SEPTEMBER 2013**

Present :- Councillor Theresa Higgins* (Chairman)
Councillors Peter Chillingworth, Helen Chuah*,
Stephen Ford, Sonia Lewis*, Cyril Liddy*,
Jackie Maclean and Laura Sykes

Substitute Members :- Councillor Paul Smith for Councillor Jon Manning
Councillor Gerard Oxford for Councillor Philip Oxford

(* Committee members who attended the formal site visit.)

55. Minutes

The Minutes of the meeting held of 22 August 2013 were confirmed as a correct record.

56. 130472 Town Hall, High Street, Colchester

The Committee considered an application for the listed building consent to install an internal partition to a corridor. The Committee had before it a report in which all the information was set out.

RESOLVED (UNANIMOUSLY) that the application be endorsed and referred to the Secretary of State for his approval.

57. 131417 14 Eldred Avenue, Colchester

The Committee considered an application for single storey side and rear extensions. The Committee had before it a report in which all the information was set out.

RESOLVED (UNANIMOUSLY) that the application be approved, subject to the conditions set out in the report.

58. 131452 & 131453 St John Ambulance Site, Chapel Road, Wivenhoe

Councillors Ford (in respect of his being Wivenhoe Quay Ward Councillor) and Lewis (in respect of her acquaintance with the Objector) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for the demolition of the superstructure of the existing St John Ambulance building and for the erection of a two storey building of mixed C3 Residential and D1 Gallery / Studio use. Another application for

conservation area consent for the demolition of the existing building was also considered. The Committee had before it a report in which all the information was set out.

Mr James Ryan, Planning Officer, presented the report and assisted the Committee in its deliberations.

Mr Brian Sinclair addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He was making representations on behalf of Wivenhoe Town Council, Wivenhoe Community Trust, Wivenhoe Society and Wivenhoe residents. He suggested that the application had previously been refused because of the recognised need for more community facilities in Wivenhoe. He stated that the site had been added to the Community Register. He suggested that many of the buildings included in the list of Wivenhoe community facilities were not usable. He also claimed that it had previously been agreed that if Ms Green could not attain planning permission, the site would be sold to the Town Council. He highlighted errors in the calculations on the survey conducted by the applicant and suggested that the Committee refuse, or at least defer the decision until an independent survey had been carried out.

Mr Robert Pomery, Agent, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He suggested that the Planning Inspector only raised one issue with the previously refused application and that was community provision. He suggested that, through a method agreed with the Council's Spatial Policy Team, a survey carried out by the applicant had highlighted an excess of provision in Wivenhoe. He also suggested that an independent survey would result in an even greater excess being found, as the applicant's survey had been narrower than the policy provided for. He stated that even if permission was not granted, the applicant would not be selling the property.

Councillor Julie Young attended the meeting and, with the consent of the Chairman, addressed the Committee. She stated that the Committee had a difficult decision ahead of it. She suggested that the decision hung on whether the Committee considered the survey to be a reasonable interpretation of community provision in the area. The statistics had been called into question. She asked the Committee to consider whether there was enough doubt to defer consideration for more accurate statistics.

It was explained by the Planning Officer that the difference in statistics between the applicant's data and the data provided by the Town Council was mainly due to the fact that the Town Council had excluded several sites. He stated that the Committee needed to consider what the Council's DP4 Policy included as a community facility, which was a very broad definition.

Members of the Committee raised concern about the discrepancy in the figures used for the number of dwellings in Wivenhoe. He was also concerned that the applicant had not taken measurements from inside any of the buildings. It was pointed out that DP4 contained no definition of community space and that the wording of the policy was so vague as to be unhelpful.

Other Members of the Committee suggested that even with the variation in figures the survey clearly showed that, within the Policy, Wivenhoe had sufficient community facilities.

It was explained that some of the data provided related to the number of residents, not the number of dwellings, which explained the discrepancy. It was clarified that the survey had included data from the Census in its calculations. It was also clarified that conditions had been set out to protect the nearby tree from construction works.

RESOLVED (EIGHT voted FOR, TWO ABSTAINED from voting) that the applications be approved, subject to the conditions set out in the reports.

59. 131231 Trafalgar Farm, 183 London Road, Stanway

Councillor L. Sykes (in respect of her work on the Tollgate Vision) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered an application for the change of use of land from agricultural to car park (105 car parking spaces), the installation of 4 lighting columns and the erection of 1.8 metres of palisade fencing to the eastern boundary. The application was a resubmission of application 112355. The Committee had before it a report in which all the information was set out.

The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Mr Mark Russell, Principal Planning Officer, presented the report and assisted the Committee in its deliberations.

Mr Robert Johnstone, Chairman of the Essex Local Access Forum, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He stated that the Essex Local Access Forum was a statutory body for guidance on access to the countryside and public rights of way. He suggested that there were footpaths in the area of the site that had not been included on the map nor had any mitigation measures been taken to ensure footpaths were not disrupted during construction. He asked for a deferral of consideration to take into account the area's footpaths.

The Committee appreciated the problems limited parking raised and were keen to see empty buildings put to use. It was requested that low emission lights be used in the car parking areas as well as having these lights on a timer. It was also requested that the entire car park's accessible parking percentage be recalculated to account for the new spaces.

Members of the Committee raised concern that there had not been any consultation with regard to local footpaths. It was explained that while Officers did not have any

information relating to public rights of way, the application could be deferred and delegated if no issues were found or returned to Committee if required.

RESOLVED (UNANIMOUSLY) that the application be deferred in order to establish whether any public rights of way would be impacted by the application and:

(i) If no public rights of way were affected, power to approve the application, subject to the conditions set out in the report and additional conditions to secure disabled parking and lighting (to be turned off outside office hours be delegated to the Head of Professional Services, with an advisory note of L.E.D. lighting.

(ii) If a public right of way was affected, the application would be re-advertised and returned to the Committee for determination.

60. 130937 Colchester Golf Club, 21 Braiswick, Colchester

The Committee considered an application for the creation of an irrigation reservoir at Colchester Golf Club. The Committee had before it a report in which all the information was set out.

The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Ms Lucy Mondon, Planning Officer, presented the report and assisted the Committee in its deliberations.

Mr Philip Adcock, of 7 Braiswick, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He claimed that he was in support of the proposal in principle but only after he had received assurances that his property would not suffer from flooding, nor would the flooding of the footpath worsen as a result of the proposal. He stated that, while the applicants were not obligated to make the flooding situation better, they should certainly not make it worse.

Mr Brian Morgan, Agent, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He suggested that the Objectors resided a considerable distance away from the proposal site, so would not be affected. He also highlighted that the Environment Agency had not raised any objections to the proposal and that a french drain would be installed to improve the drainage of the adjacent footpath.

The Committee considered that the proposal made sense environmentally and suggested that as much as possible had been done to ensure no adverse effects on the surrounding area.

It was explained that the banks of the reservoir were raised to prevent overflow and that the level of the reservoir was lower than that of the Objector's property.

RESOLVED (UNANIMOUSLY) that the application be approved, subject to the conditions set out in the report.

61. Congruence, Consolidation and Confirmation Reports

Councillor Smith (in respect of his acquaintance with the Objector) declared a non-pecuniary interest in this item pursuant to the provisions of Meetings General Procedure Rule 7(5).

The Committee considered a report of the Head of Professional Services which set out proposed changes to the Colchester Borough Council Planning Procedures Code of Practice to formalise a process for considering the implications and risks of overturning a recommendation made to the Planning Committee by its Officers before that decision is formally voted upon, in order to strengthen the decision and agree formal wording. It is also suggested that the Code be updated to reflect the new Service names resulting from the UCC FSR. The Committee had before it a report in which all the information was set out, with the suggested Schedule, Flow Chart and updated Code of Practice attached as Appendices to the report.

Mr Andrew Tyrrell, Planning Manager, presented the report and assisted the Committee in its deliberations.

Ms Paula Baker addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the report. She suggested that the proposal would allow Officers to overturn decisions of the Committee without further public consultation. She claimed that making a decision to defer an application before voting on a motion was wrong. She cited Article 21 of the Universal Declaration of Human Rights, which declared that everyone had the right to take part in government. She went on to remind Councillors that they were acting on behalf of those who had elected them and that this proposal denied them a voice.

It was explained that the proposed protocol was widely adopted by many Councils nationwide. It was established that further public speaking was not advised as such situations would involve only one application, spread over two Committee meetings. No further discussion of the merits of the application would take place at the second Committee. It was also explained that the Committee would not vote on a motion to go against an Officer decision until the second meeting, so it would be possible for such a motion to be voted down and the original Officer recommendation to be upheld, at the second meeting.

A member of the Committee questioned the need for such a protocol based on recent success records and two Members raised concerns regarding the fact that the public would not be able to speak on the application again. The Committee were happy to have a method of strengthening their decisions, although they requested that the decision to use the protocol be down to a Committee vote, not at the discretion of the Chairman.

It was suggested that the protocol be introduced for a trial period and that the process

be given the title 'Delayed Decision Protocol'.

RESOLVED (EIGHT voted FOR, TWO voted AGAINST) that –

- (i) The suggested new deferral process be introduced for a one year trial to allow the Committee a formal protocol to minimise any risk implications from taking a decision contrary to Officer recommendation and the process form a new Schedule to the Planning Procedures Code of Practice;
- (ii) The decision on whether to defer a decision in accordance with the process be made by the Members of the Committee only.
- (iii) This process be known as the “Delayed Decision Protocol”; and
- (iv) All reference to “Environmental & Protective Services” in the Code of Practice be updated to either “Professional Services” and / or “Commercial Services” as appropriate.

62. Application No. O/COL/03/1019 Mixed Development at New Braiswick Park, Bergholt Road, Colchester

The Committee considered a report of the Head of Professional Services concerning an amendment to a transport contribution which would mean that Essex County Council would need to pay the applicant the sum of £29,136. The Committee had before it a report in which all the information was set out.

Mr Mark Russell, Principal Planning Officer, presented the report and assisted the Committee in its deliberations.

RESOLVED (NINE voted FOR, ONE ABSTAINED from voting) that the deed of variation between the applicant, Taylor Wimpey & Persimmon Homes, and Essex County Council, of a Section 106 Agreement dated 7 May 2004, be agreed.

63. Urgent Item - Request to Amend the Scheme of Delegation

The Chairman had agreed, pursuant to the provisions of Section 100B(4)(b) of the Local Government Act 1972, to consider the following item at the meeting as a matter of urgency because of the need for the redistribution of existing officer delegations to reflect recent service restructuring, which is due to become operational on 1 October 2013.

The Committee considered a report of the Head of Commercial Services and Head of Professional Services which set out proposed changes to the Scheme of Delegation to effect a redistribution of existing powers to match service function changes that had arisen from the Universal Customer Contact Fundamental Services Review. The Committee had before it a report in which all the information was set out.

Mr Andrew Tyrrell, Planning Manager, presented the report and assisted the Committee in its deliberations.

RESOLVED (UNANIMOUSLY) that –

- (i) the recommended redistribution of existing powers as set out in Appendix 1 and 2 of the report be agreed;
- (ii) these changes become operational on 1 October 2013; and
- (iii) The Legal Services Manager and Monitoring Officer (or equivalent post-holder) make appropriate arrangements to incorporate and publish the agreed amended Schemes of Delegation within the Constitution and that this shall occur in time to facilitate their coming into force on 1 October 2013.